

STATE OF SOUTH CAROLINA

COUNTY OF CHESTER

Andrew H. Martin

Plaintiff(s)

vs.

Alex Underwood, as representative for the Office of
the Chester County Sheriff's Department,

Defendant(s)

Submitted By: Daniel D'Agostino
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2015-CP-12- 00369

FILED
2015 JUL -6 P 4:37
CLERK OF COURT
CHESTER CO S.C.

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- ☒ JURY TRIAL demanded in complaint. ☐ NON-JURY TRIAL demanded in complaint.
☐ This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☒ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- | | | | |
|--|--|---|--|
| Contracts
<input type="checkbox"/> Constructions (100)
<input type="checkbox"/> Debt Collection (110)
<input type="checkbox"/> Employment (120)
<input type="checkbox"/> General (130)
<input type="checkbox"/> Breach of Contract (140)
<input type="checkbox"/> Other (199) | Torts - Professional Malpractice
<input type="checkbox"/> Dental Malpractice (200)
<input type="checkbox"/> Legal Malpractice (210)
<input type="checkbox"/> Medical Malpractice (220)
Previous Notice of Intent Case #
2015-NI-42-648
<input type="checkbox"/> Notice/ File Med Mal (230)
<input type="checkbox"/> Other (299) | Torts - Personal Injury
<input type="checkbox"/> Assault/Slander/Libel (300)
<input type="checkbox"/> Conversion (310)
<input type="checkbox"/> Motor Vehicle Accident (320)
<input type="checkbox"/> Premises Liability (330)
<input type="checkbox"/> Products Liability (340)
<input type="checkbox"/> Personal Injury (350)
<input type="checkbox"/> Wrongful Death (360)
<input checked="" type="checkbox"/> Other (399) | Real Property
<input type="checkbox"/> Claim & Delivery (400)
<input type="checkbox"/> Condemnation (410)
<input type="checkbox"/> Foreclosure (420)
<input type="checkbox"/> Mechanic's Lien (430)
<input type="checkbox"/> Partition (440)
<input type="checkbox"/> Possession (450)
<input type="checkbox"/> Building Code Violation (460)
<input type="checkbox"/> Other (499) |
| Inmate Petitions
<input type="checkbox"/> PCR (500)
<input type="checkbox"/> Mandamus (520)
<input type="checkbox"/> Habeas Corpus (530)
<input type="checkbox"/> Other (599) | Administrative Law/Relief
<input type="checkbox"/> Reinstatement Drv. License (800)
<input type="checkbox"/> Judicial Review (810)
<input type="checkbox"/> Relief (820)
<input type="checkbox"/> Permanent Injunction (830)
<input type="checkbox"/> Forfeiture-Petition (840)
<input type="checkbox"/> Forfeiture-Consent Order (850)
<input type="checkbox"/> Other (899) | Judgments/Settlements
<input type="checkbox"/> Death Settlement (700)
<input type="checkbox"/> Foreign Judgment (710)
<input type="checkbox"/> Magistrate's Judgment (720)
<input type="checkbox"/> Minor Settlement (730)
<input type="checkbox"/> Transcript Judgment (740)
<input type="checkbox"/> Lis Pendens (750)
<input type="checkbox"/> Transfer of Structured Settlement Payment Rights Application (760)
<input type="checkbox"/> Confession of Judgment (770)
<input type="checkbox"/> Petition for Workers Compensation Settlement Approval (780)
<input type="checkbox"/> Other (799) | Appeals
<input type="checkbox"/> Arbitration (900)
<input type="checkbox"/> Magistrate-Civil (910)
<input type="checkbox"/> Magistrate-Criminal (920)
<input type="checkbox"/> Municipal (930)
<input type="checkbox"/> Probate Court (940)
<input type="checkbox"/> SCDOT (950)
<input type="checkbox"/> Worker's Comp (960)
<input type="checkbox"/> Zoning Board (970)
<input type="checkbox"/> Public Service Comm. (990)
<input type="checkbox"/> Employment Security Comm (991)
<input type="checkbox"/> Other (999) |
| Special/Complex /Other
<input type="checkbox"/> Environmental (600)
<input type="checkbox"/> Automobile Arb. (610)
<input type="checkbox"/> Medical (620)
<input type="checkbox"/> Other (699) | | | |
| <input type="checkbox"/> Pharmaceuticals (630)
<input type="checkbox"/> Unfair Trade Practices (640)
<input type="checkbox"/> Out-of-State Depositions (650)
<input type="checkbox"/> Motion to Quash Subpoena in an Out-of-County Action (660)
<input type="checkbox"/> Sexual Predator (510) | | | |

Submitting Party Signature: 

Date: 7/1/15

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCF, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

FOR MANDATED ADR COUNTIES ONLY

Aiken, Allendale, Anderson, Bamberg, Barnwell, Beaufort, Berkeley, Calhoun, Charleston, Cherokee, Clarendon, Colleton, Darlington, Dorchester, Florence, Georgetown, Greenville, Hampton, Horry, Jasper, Kershaw, Lee, Lexington, Marion, Oconee, Orangeburg, Pickens, Richland, Spartanburg, Sumter, Union, Williamsburg, and York

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

You are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs. (Medical malpractice mediation is mandatory statewide.)
4. Cases are exempt from ADR only upon the following grounds:
 - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
 - b. Requests for temporary relief;
 - c. Appeals
 - d. Post Conviction relief matters;
 - e. Contempt of Court proceedings;
 - f. Forfeiture proceedings brought by governmental entities;
 - g. Mortgage foreclosures; and
 - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

Please Note: You must comply with the Supreme Court Rules regarding ADR. Failure to do so may affect your case or may result in sanctions.

STATE OF SOUTH CAROLINA
COUNTY OF CHESTER

IN THE COURT OF COMMON PLEAS
SIXTH JUDICIAL CIRCUIT

Andrew H. Martin,

Plaintiffs,

vs.

Alex Underwood, as representative for the
Office of the Chester County Sheriff's
Department,

Defendants.

C.A. No.: 2015-CP-12- 00309

SUMMONS

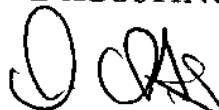
(Jury Trial Requested)

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CLERK OF COURT
CHESTER CO S.C.

**TO: THE DEFENDANT, ALEX UNDERWOOD, AS REPRESENTATIVE FOR
THE OFFICE OF THE CHESTER COUNTY SHERIFF'S DEPARTMENT:**

YOU ARE HEREBY SUMMONED AND REQUIRED TO ANSWER the Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your answer to the said Complaint on the subscriber at his offices at 25 West Liberty Street, York, South Carolina 29745 within thirty (30) days after the service hereof, exclusive of the day of such service; and if you fail to answer this Complaint within the time aforesaid, the Plaintiff in this action will apply to the Court for the relief demanded in the Complaint.

D'AGOSTINO LAW FIRM



DANIEL D. D'AGOSTINO

25 West Liberty Street
York, South Carolina 29745
Office: 803-628-6509

ATTORNEY FOR PLAINTIFF

York, South Carolina
July 2, 2015

STATE OF SOUTH CAROLINA
COUNTY OF CHESTER

IN THE COURT OF COMMON PLEAS
SIXTH JUDICIAL CIRCUIT

Andrew H. Martin,

Plaintiffs,

vs.

Alex Underwood, as representative for the
Office of the Chester County Sheriffs
Department,

Defendants.

C.A. No.: 2015-CP-12- 00309

COMPLAINT

(Jury Trial Requested)

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The Plaintiff, by and through his undersigned attorney, respectfully alleges the following against the Defendant:

PREFACE

This complaint alleges the state common law tort claim of false arrest and malicious prosecution pursuant to the South Carolina Tort Claims Act, against the Chester County Sheriff's Office based on the acts and omissions of Deputy Darby in arresting and prosecuting Plaintiff without probable cause on the charges of Assault and Battery 3rd Degree and Public Disorderly Conduct.

PARTIES

1. The Plaintiff, Andrew H. Martin, is a resident of Chester County, South Carolina.
2. The defendant, Chester County Sheriff's Office, is an agency organized by Chester County, a political subdivision of South Carolina. It is the appropriate party defendant pursuant to S.C. Code Ann. § 15-78-70, which makes the employing agency

statutorily liable for the acts and omissions of its officers acting in the course and scope of their official duties.

JURISDICTION

3. The Plaintiff brings his state law claims pursuant to the South Carolina Tort Claims Act, *S.C. Code Ann. §1-78-10 et seq.* The incident that gives rise to this action occurred in York County.

STATEMENT OF FACTS

4. In February of 2014, in addition to his regular job, Plaintiff Andrew H. Martin was a chief volunteer firefighter for Chester County.

5. On February 14, 2014 at 2:45 p.m. Plaintiff was dispatched to a tractor trailer accident on SC Hwy 9 West at the intersection of Turnbuckle Road, also known as Dead Man's Curve.

6. Plaintiff arrived on the scene along with the Chester County Sheriff and his deputies.

7. While on the scene, there was a disagreement between Plaintiff and the Sheriff and his deputies regarding the procedures of the traffic control. The Sheriff and the deputies then struck Plaintiff, battered Plaintiff, and subsequently arrested the Plaintiff.

8. When Plaintiff got out on bond, he hired a criminal defense attorney, Daniel D'Agostino, to represent him. After an independent investigation by SLED, the charges were dismissed by the S.C. Attorney General's office.

LEGAL THEORIES OF RECOVERY

For a First Cause of Action

False Arrest against the Chester County Sheriff's Office pursuant to the SCTCA

9. The allegations set forth above are repeated as if included herein.

10. The Office of the Chester County Sheriff's Department is vicariously liable for the acts of its Sheriff and deputies acting within the course and scope of their employment.

11. The acts and omissions of the deputy in arresting plaintiff on the charges of Assault and Battery 3rd Degree and Public Disorderly Conduct were without probable cause or lawful authority constituting the tort of false arrest.

12. As a direct and proximate result Plaintiff incurred attorney fees, physical and emotional damage and is entitled to actual damages for the same.

For a Second Cause of Action

Malicious Prosecution against the Chester County Sheriff's Office pursuant to the SCTCA

13. The allegations set forth above are repeated as if included herein.

14. The Office of the Chester Sheriff is vicariously liable for the acts of its deputies acting within the course and scope of their employment in prosecuting Plaintiff in court on the criminal charges of Assault and Battery 3rd Degree and Public Disorderly Conduct constitutes the tort of malicious prosecution, as the prosecution was not supported by evidence and was not for a valid purpose.

15. As a direct result, Plaintiff incurred attorney's fees, mental and emotional anguish and is entitled to damages for the same.

For a Third Cause of Action

Assault and Battery

16. The allegations set forth above are repeated as if included herein.

17. The Defendant and his deputies assaulted and battered Plaintiff, causing physical and emotional damage.

Plaintiff alleges the following:

- i) There was the institution and continuation of original judicial proceedings by the arrest and prosecution on the criminal charges of Assault and Battery 3rd Degree;
 - ii) by, or at the insistence of the Sheriff;
 - iii) the termination of the criminal proceedings in the Plaintiff's favor for reasons consistent with innocence;
 - iv) the prosecution was done with implied malice for want of probable cause;
 - v) there was not probable cause for the arrest; and
18. Plaintiff suffered physical, emotional and financial damage for which he is entitled to actual damages.

For a Fourth Cause of Action

19. The allegations set forth above are repeated as if included herein.
20. The Defendants, Sheriff and his deputies, wrongfully obtained and procured an arrest warrant for the Plaintiff's arrest.
21. The Defendants served the warrants late in the evening so as to cause the Plaintiff to not only be incarcerated but to be incarcerated overnight.
22. The Defendants lacked a sufficient factual basis to obtain warrants and the incarceration of the Plaintiff was done without sufficient probable cause or a legal basis and Plaintiff should never have been incarcerated.
23. Plaintiff is entitled to actual damages for all his pain and suffering and emotional distress associated with the false imprisonment.

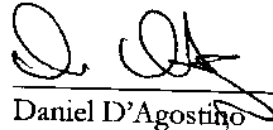
PRAYER FOR RELIEF

Wherefore, having fully set forth the grounds of his complaint, Plaintiff asks this court to award compensatory damages in an appropriate amount, costs of this action and for such other relief as this court deems just and proper.

Respectfully submitted.

July 2, 2015

York, SC 29745



Daniel D'Agostino
D'Agostino Law Firm
25 W. Liberty St.
York, SC 29745
803-628-6509
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